

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

PATRICIA JOHNSON, FAUSTO CABRERA,
VELLYN ANTONELLI, CARMEN FOX,
MARK ANGELOPOULOS, DIANE
ANDERSON, JAMES COOLEY, AND
MARGARET COOLEY, on behalf of herself
and all others similarly situated,

Plaintiffs,

v.

BAC HOME LOANS SERVICING, LP, a
subsidiary of BANK OF AMERICA, N.A.,

Defendant.

Civil Action No. 10-10316 - RWZ

DECLARATION OF JAMES W. MCGARRY

I, James W. McGarry, state as follows:

1. I am a partner with the law firm of Goodwin Procter LLP, Exchange Place, Boston, Massachusetts 02109. I am a member in good standing of the Bar of the Commonwealth of Massachusetts, and am counsel of record for Defendant BAC Home Loans Servicing, LP (“BAC”) in this matter.

2. I make this declaration in support of BAC’s Opposition to Plaintiffs’ Motion for Provisional Class Certification and Opposition to Plaintiffs’ Motion for Preliminary Injunction.

3. In connection with this lawsuit, I have had several discussions with a number of Plaintiffs' counsel, including Kevin Costello, regarding foreclosure sales related to Plaintiff Carmen Fox. In particular, between July 28 and July 30, 2010, Mr. Costello and I discussed a sale that had been previously postponed until August 2, 2010. I confirmed with Mr. Costello by telephone on July 30 that the foreclosure sale had been cancelled, and confirmed in an email that day that no further sale date had been scheduled.

4. Although I did discuss with Mr. Costello that at the time BAC could not represent that the foreclosure sale would be postponed indefinitely, in part due to the need to consult with the investor on Fox's loan, I never informed Mr. Costello "that it may be rescheduled at any time and is unlikely to be postponed again," as suggested in the Declaration of Mr. Delbaum.

5. I have subsequently confirmed again with both BAC and its foreclosure counsel, Harmon Law Offices, P.C., that the foreclosure sale on Fox's property has been cancelled.

6. Attached hereto as Exhibit A is the Declaration of Laurie A. Maggiano, which was publicly filed in the matter of *Edwards v. Aurora Loan Servicing LLC*, No. 09-CV-02100, in the United States District Court for the District of Columbia. This document was retrieved from the PACER System.

I declare under the penalty of perjury of the laws of the United States of America that the foregoing is true and correct this 15th day of October 2010.

/s/ James W. McGarry
James W. McGarry

Dated: October 15, 2010

Respectfully submitted,
BAC Home Loans Servicing, L.P.,
By its attorneys,

/s/ James W. McGarry

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CERTIFICATE OF SERVICE

I certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on October 15, 2010.

/s/ James W. McGarry